

RemarksI. Introduction

Claims 1-18 and 20-23 are presented for examination. Claim 19 has been canceled, and claims 1, 10, 12-14, and 17 have been amended.

II. Claim Rejections - Obviousness Type Double Patenting

Claims 1-16 and 23 were rejected for obviousness-type double patenting as being unpatentable over claims 2-12 of copending application No. 09/564,005. Applicants are hereby submitting a terminal disclaimer, thus rendering this ground of rejection moot.

III. Claim Rejections - 35 U.S.C. § 112, Second Paragraph

Claims 1-23 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

First, the Examiner states that claims 1-16 and 19 are indefinite because of the use of the term "said composite comprising: 5 to 90 parts soy protein; and 90 to 5 parts of a polylactide." Claim 19 has been canceled, thereby rendering the rejection with respect to this claim moot. Applicants has now amended claim 1 (from which claims 2-16 depend) to clarify that the components are measured by weight and that the composite total does not exceed 100 parts. Literal support for these amendments is found on pp. 6-7 of the specification. Since these amendments are made merely for clarification purposes, they are not narrowing.

The Examiner next states that claim 10 is indefinite due to its use of the term "adipic/acetic anhydride". Claim 10 has now been amended to state that the cross-linking agent may be adipic anhydride or acetic anhydride. Since it is readily apparent that the slash between "adipic" and "acetic" was intended to indicate that the compound could be either adipic anhydride or acetic anhydride, this amendment does not add new matter. Again, since this amendment was made merely for the sake of clarification, it is not narrowing.

Claim 12 was rejected on the basis that the term "0-0.6 parts glutaric dialdehyde" is indefinite for not stating whether the component is measured by weight or by volume, and also for not conforming to the limitation of claim 9 which requires the presence of a cross-linking agent. Claim 12 has now been amended to state that the parts of glutaric dialdehyde is measured

by weight and to depend from claim 10 instead of 9, thereby alleviating this ground of rejection. Likewise with claim 13. Since these amendments are used only for clarification purposes, they are not narrowing.

Claim 14 was also rejected for failing to conform to the limitation of the claim. Claim 14 has now been amended to conform the concentration limitation with the claim language. Since this amendment was made only for purposes of clarification, it is not narrowing.

Claims 17-22 were rejected as being indefinite for lacking the amounts of plant protein and polylactide used for preparing the composite, and for lacking the temperature at which the mixture is extruded. Claim 17 from which claims 22 depend has been amended to state the amounts of plant protein and polylactide as set forth in claim 19, now canceled.

It is respectfully submitted that claims 17-22 are not lacking an essential step for not including the extruding temperature since page 11 of the specification clearly states that "[t]he temperatures used during this method can be any which allow appropriate flow of the materials, without losing the essential qualities of the composite." This temperature will depend on a number of factors, including materials used, their respective concentrations, pressure, screw speed, inclusion of various additives, etc., as would be readily appreciated by a person skilled in the art. (Spec. p. 11). A person skilled in the art can easily determine an appropriate temperature for extruding the mixture. It is therefore respectfully submitted that claims 17-22 are not indefinite.

Finally, claim 23 was rejected as being indefinite on the basis that it does not cite the amount of each component contained in the composite. The specification provides detailed information concerning appropriate concentrations for each of the ingredients listed in claim 23, including the plant protein, polylactide, and compatilizer (page 6), cross-linking agent (pp. 15-16), and plasticizer (page 19). Since the claims are read in light of the specification, it is respectfully submitted that claim 23 is not indefinite.

IV. Claim Rejections - 35 U.S.C. § 102

Claims 17, 21, and 22 were rejected under 35 U.S.C. § 102(e) as being anticipated by Tomka (U.S. Pat. No. 6,214,907). Claim 17 from which claims 21 and 22 depend have now been amended to state that the method includes combining 5 to 90 parts by weight plant protein with 90 to 5 parts by weight polylactide, as set forth in claim 19, now canceled. Since claim 19

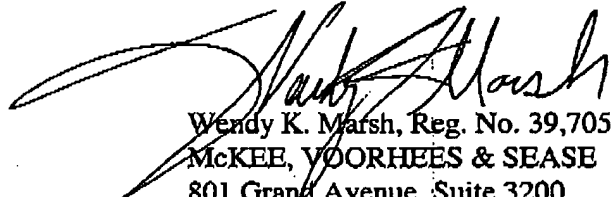
was not included in the Examiner's rejection, it is respectfully submitted that this ground of rejection is rendered moot.

V. Conclusion

It is believed the application is in a prima facie condition for allowance. Allowance is therefore respectfully requested.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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